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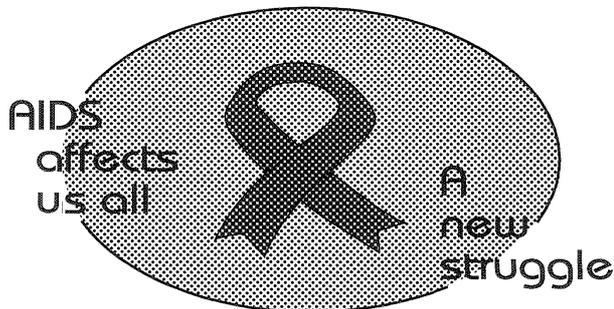
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19 MARCH 2015
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No. 1338

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MUNICIPAL NOTICE

No. 38**19 March 2015****EMNAMBITHI/LADYSMITH MUNICIPALITY**

The Emnambithi/Ladysmith Municipality, in terms of Section 156 of the Constitution of the Republic of South Africa Act No. 108 of 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act No. 32 2000, published in line with the procedures set out in sections 12 and 13 of the Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) hereby publishes the Public Amenities Bylaw which will take effect at the publication date thereof.

NOTICE NO. 35/2015 DATED 26 FEBRUARY 2015

M P KHATHIDE
MUNICIPAL MANAGER

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CHAPTER 1: DEFINITIONS

1. Definitions

In this Bylaw, unless the context indicates otherwise-

"authorised official" means an Official of the Council who is authorised to manage or assist in the management of a public amenity;

"Council" means the Municipal Council of the Municipality;

"motor vehicle" includes a motor cycle, motor quadra-cycle, motor tri-cycle and a trailer;

"notice" means an Official notice of the Council displayed at entrances to or at conspicuous places in a public amenity;

"public amenity" means any outdoor or indoor amenity which is vested in or controlled by the Council and to which the public have access, and includes, without limiting the generality of this definition –

(a) a park, botanical or zoological garden, pleasure resort, nature reserve, hiking trail, sports ground or swimming pool; and

(b) any building situated within a public amenity; and

(c) Community halls, libraries other Municipal facilities

"person" means an individual referred to in a section and includes the plural form of the term as well as juristic entities.

"the Municipality" means the Emnambithi/Ladysmith Municipality.

CHAPTER 2: ENTRANCE TO PUBLIC AMENITIES

2. Opening times

1. A public amenity shall be open to the public during times determined by the Council and indicated by notice.
2. No person shall enter or be present in a public amenity other than during the opening times determined by the Council in terms of subsection (1).

3. Entrance fees

Council may determine entrance fees to a public amenity:

1. No person shall enter a public amenity unless he or she has paid the entrance fee determined by the Council in terms of subsection (1).
2. The Council may suspend the payment of entrance fees on any specific day or days as it deems fit.
3. The council may amend the amount charged in lieu of entrance fees from time to time.

4. Entrance and exit

No person shall enter or leave a public amenity except through the gates provided for that purpose.

5. Maximum number of visitors

The Council may determine, and display by notice, the maximum number of visitors who may be admitted to or be present in any public amenity during specific times or on specific days.

6. Closing of public amenities

The Council may –

1. For any special purpose by notice close a public amenity or part thereof for such time as it may from time to time consider necessary or expedient; and
2. For any purpose related to the operation and maintenance of the public amenity by notice close any part of public amenity to the public.
3. The Council may cancel a booking of a facility where such facility is required for an Official purpose approved by the Council. In such a scenario alternative arrangements shall be made for the rehiring of the venue.

CHAPTER 3: PROHIBITED CONDUCT

7. Personal behavior and other restrictions

No person –

- (a) who is drunk or under the influence of any drug may enter or remain in a public amenity, and such person will not be admitted to a public amenity;
- (b) may in or at a public amenity –
 - (i) break, damage, destroy, tamper with, remove, misuse, disfigure or use anything or fail to observe an instruction by the Municipality;
 - (ii) throw or roll a rock, stone or object;
 - (iii) except if authorised to do so under Section 9(2)(b), pull out, pick, cut or damage any flora growing in the amenity, or have such flora in his or her possession;
 - (iv) walk on a flowerbed;
 - (v) walk, stand, sit or lie on grass in contradiction with a notice;
 - (vi) write, paint, draw graffiti or a symbol, emblem or the like on a structure or path;

- (vii) excavate soil, sand or stone or remove organic or inorganic objects; except if authorised to do so in terms of Section 9;
 - (viii) interfere with water flow, obstruct water, divert a stream or drain a wetland;
 - (ix) deface or disfigure anything provided by the Municipality by pasting or affixing in any way any bills, papers, placards, notices or anything else;
 - (x) wash, polish or repair a vehicle, except emergency repairs;
 - (xi) burn refuse;
 - (xii) litter or dump any refuse, garden refuse or building materials;
 - (xiii) wash crockery or laundry or hang out clothes, except at places indicated by notice for that purpose;
 - (xiv) use or try to use anything provided by the Municipality in an amenity for a purpose other than that for which it is designed or determined by notice;
 - (xv) dispose of any burning or smouldering object;
 - (xvi) behave or conduct himself or herself in an improper, indecent or unbecoming manner;
 - (xvii) defecate, urinate or undress, except in such building or on premises intended for that purpose;
 - (xviii) lie on a bench or seating place provided by the Municipality or use it in such a manner that other users or potential users find it impossible to make use thereof;
 - (xix) play or sit on play-park equipment, except if the person concerned is a child under the age of 13 years;
 - (xx) swim, walk or play in a fish-pond, fountain, dam, river, artificial feature or pond; in contravention with a notice prohibiting such action;
 - (xxi) having an open wound on his or her body, enter any bath provided by the Municipality;
 - (xxii) perform any act that may detrimentally affect the health of another person;
 - (xxiii) enter or use a toilet facility indicated by notice for use by members of the opposite sex;
 - (xxiv) stay or sleep over night other than in terms of Section 14;
 - (xxv) hunt, injure, disturb, feed, kill, hurt, follow, disturb, ill-treat or catch an animal, or displace, disturb, destroy or remove a bird, nest or egg, or skin or gut an animal, except if authorised to do so in terms of a permit to this effect;
 - (xxvi) discharge a firearm, airgun or pistol, except if consent has been granted in terms of Section 7(4);
 - (xxvii) discharge a bow or use a slingshot or catapult;
 - (xxiii) in any way whatsoever prejudice the safety, convenience or rights of other persons;
 - (xxix) play or conduct a game in a manner that causes annoyance or endangers public safety;
 - (xxx) expose his or her body or clothe indecently; discard of a burning or smouldering object or throw it out of a vehicle;
 - (xxxi) allow school children to be left unattended in recreational parks and other facilities during ordinary school hours during the normal school term except where such children are accompanied by a parent, legal guardian or duly authorised educator who presents official documentation which specifically authorises them to do so.
 - (xxxii) allow any children under the age of 12 years of age to use any facility of amenity unattended or unsupervised by an adult.
 - (xxxiii) discharge any fireworks or light a bonfire in any public space, in or on the premises of any amenity except with the prior written permission of the Municipality.
- (c) may enter –
- (i) or leave a public amenity other than by way of the official entry and exit point;
 - (ii) a public amenity without having paid the entrance fees as contemplated in Section 5(1);
- (d) may release or introduce any wild animal, fish, bird or flora into a public amenity;
- (e) may, in inland waters –
- (i) swim, catch fish or otherwise or angle if not authorised to do so in terms of a notice board erected in terms of Section 6(1);
 - (ii) catch fish with a net;
 - (iii) feed any fish without approval of the Municipality;
 - (iv) wash himself or herself or clean anything;
 - (f) may use any craft on inland waters at any place other than that which has been indicated on a notice board erected in terms of Section 6(1);
2. A person who contravenes a provision of Subsection (1) commits an offence.

8. Damage

No person in a public amenity shall-

1. Place or leave any placards or notices;
2. Damage or remove any vegetation, including any grassed area;
3. Light any fire, except at designated braai facilities;

4. Litter;
5. Erect any structure or tent of any kind without the consent of Council in writing; and
6. Damage any building or other structure erected by or with the consent of the Council.

9. Animals

1. No person in a public amenity shall -
 - (a) Take a dog or any other animal into a public amenity in contravention of a notice;
 - (b) Bathe or wash a dog or any other animal, or allow a dog or any other animal to swim, in any stream, river, lake, dam, pond, fountain or ornamental water feature; and
 - (c) Interfere with or harm any bird or wild animal.
2. In any public amenity where dogs are allowed, the owner or person having custody of a dog shall ensure that –
 - (a) the dog is kept on a leash;
 - (b) the dog does not attack, terrify or interfere with any person, animal or bird; and
 - (c) any faeces left by the dog are removed.
3. The Council may impound any dog or other animal which is found in a public amenity and which appears not to be in the custody of a person.

10. Fishing

No person shall-

1. Fish without a permit issued by the Council; or
2. Fish in contravention of any notice or conditions of permit.

11. Vehicles

No person in a public amenity shall –

1. Drive or park a motor vehicle in contravention of a notice;
2. Clean, maintain or carry out repairs on any motor vehicle; or
3. Ride a bicycle, skateboard, roller skates or other similar device in contravention of a notice.

12. Games and play areas

No person in a public amenity shall-

1. Play soccer, cricket or rugby or any other similar game, except in the allocated places and at times determined by the Council; and
2. Enter play areas, or use play apparatus, designated by notice as being for the use of children under a particular age.

13. Camping

The following principles shall apply to camping-

1. No person may camp on any land belonging to or which is under the control of the Municipality except on a camping site within the boundaries of a camping area.
2. No person may camp in a camping area whether continuous or otherwise for a period exceeding three months in any period of twelve months without the written consent of the Municipality.
3. The Municipality may grant or refuse such an application subject to such conditions and for such period as it may deem fit but not for any period in excess of a further three consecutive months.
4. The occupier of a camping site must be the person whose name appears on the camping permit and he or she may not sublet, cede, dispose of or in any manner alienate his or her rights thereunder.
5. Reservation of camping sites will only be considered upon receipt of a written application.
6. The Municipality may determine conditions additional to those contained in this Bylaw for the use of camping sites that fall under the control of the Municipality.
7. The Municipality may determine conditions for the establishment of private camping facilities.
8. A person who contravenes a provision of Subsections (1), (2) and (4) or any condition imposed by the Municipality in terms of Subsections (6) and (7) commits an offence.

14. Caravan parks

The following principles shall apply to camping-

1. Notwithstanding the provisions of Section 13(1) the Municipality may allocate ten percent (10%), or such greater percentage of the sites in a caravan park to be permanently occupied by caravans or mobile homes.
2. The Municipality may determine conditions for the establishment of private caravan parks.
3. The Municipality may determine conditions additional to those contained in this bylaw for the use of caravan parks that fall under the control of the Municipality.

4. Any person who contravenes or fails to comply with any condition imposed in terms of subsections (2) and (3) commits an offence.

CHAPTER 4: GENERAL PROVISIONS

15. Hiring of venues

Where a person wishes to hire a venue the following shall apply-

1. Applications for bookings shall be made at least 30 days in advance
2. All applications for the hire of the building must be made in writing to the Municipality.
3. The Municipal Manager or his authorised representative may approve the request, refuse the request or approve the request subject to certain conditions.
4. The person named on the booking form shall be considered the Hirer. Where an organisation is named, the person signing will be deemed to have full authority to act on behalf of the organisation.
5. The Hirer must be over 18 years of age.
6. The Municipality may charge a deposit for the use of a venue. Any deposit required must be paid at the time of application.
7. No booking will be deemed to be final until the deposit and full amount due for use of the facility has been received.
8. The booking deposit is refundable subject to satisfactory inspection of the facility by a Municipal Official.

16. Cancellation of bookings by person making a booking

Where a person making a booking wishes to cancel a booking the following principles shall apply:

1. A cancellation will only be effective when written confirmation of such cancellation is received by the Municipality.
2. If a booking is cancelled:
 - a) between 30 and 60 days prior to the booking date, the Municipality will retain the deposit paid or 50% of the total booking cost paid; whichever is greater.
 - b) 30 calendar days prior to the booking date, the Municipality will retain the deposit paid and 50% of the total booking cost paid at the time of cancellation.
 - c) less than 30 days prior to departure, the Municipality is entitled to retain 100% of any amounts paid in connection with the booking.

17. Cancellation of bookings by Municipality

Where the Municipality wishes to cancel a booking the following principles shall apply:

1. The Municipality may cancel a booking at any time up to 30 days prior to the booking date where:
 - a) The venue in question is required for any official purposes authorised by Council.
 - b) Due to the threat or actual occurrence of any terrorism, natural disasters, political instability or other external events it is not viable for the Municipality to make the venue available on the booking date.
2. Where cancellation is made by the Municipality, the person is entitled to transfer any amounts paid to an alternate booking date or alternatively receive a full refund of the amounts paid.
3. In circumstances where the cancellation is due to external events outside the reasonable control of the Municipality as outlined in Section 18(1)(b) above, refunds will be less any unrecoverable costs that may have been incurred.
4. The Municipality, The Council and its officials shall not be responsible for any incidental expenses that may have been incurred or will be incurred as a result of the cancellation of a booking under the circumstances stated in this Section.

18. Broadcasting of Music, Video and other copyrighted material.

1. Any venue or facility hired out is let out on the understanding that there will be no broadcast of any materials in which Copyright may exist including though not limited to the broadcast of music, videos, recitations of published literary works or any other work in which a Copyright would exist and where the broadcast of which would constitute an infringement of such copyright.
2. Where the hirer of a venue engages in activities that constitute the broadcasting of such works, the hirer shall be deemed by the Municipality to be in possession of the necessary licensing to do so.
3. Where the hirer has engaged the services of a Service Provider to attend to such broadcasts, the hirer shall provide the details of the broadcaster (i.e. the DJ, entertainment director etc.) which records may be made available for inspection by any authority that may have reason to do so.

19. Powers of official and offences

The Official appointed by the Municipality to monitor and enforce this Bylaw may investigate any act or omission which on reasonable suspicion may constitute an offence, and a person commits an offence if he or she -

- (a) threatens, resists, hinders or obstructs, or uses foul, abusive or insulting language towards or at an Official in the exercise of his or her powers or execution or his or her duties; or
- (b) falsely holds himself or herself out to be an Official;
- (c) furnishes false or misleading information when complying with a request of an Official; or
- (d) fails to comply with a request of an Official.

20. Appeal

A person whose rights are affected by a decision of the Municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of Section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the Municipal Manager within 21 days of the date of the notification of the decision.

21. Penalties

A person who:-

1. contravenes or fails to comply with any provision of these Bylaws; or
2. fails to comply with any notice issued in terms of these Bylaws; or
3. fails to comply with any lawful instruction given in terms of these Bylaws; or
4. who obstructs or hinders any authorised Official or Employee of the Council in the execution of his or her duties under these Bylaws, is guilty of an offence and liable on conviction to a fine not exceeding R1000, 00 or in default of payment to imprisonment for a period not exceeding 3 months.

22. Limitation of liability

The Municipality is not liable for any damage or loss caused by –

- (a) the exercise of any power or the performance of any duty in good faith under this Bylaw; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under this Bylaw.

23. Authentication and service of notices and other documents

The following shall apply to the issuing of notices in respect of this Bylaw:-

1. A notice issued by the Municipality in terms of this Bylaw is deemed to be duly issued if it is signed by an Officer authorised by the Municipality.
2. Any notice or other document that is served on a person is regarded as duly served-
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgement of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e- mail address.
3. Service of a copy is deemed to be service of the original.
4. When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

24. Presumption

In any prosecution under this Bylaw it shall be presumed, unless the contrary is proved, that an animal found in a public amenity was brought into the amenity by the owner thereof or a person under the control of the owner, or that the owner or the person allowed the animal to enter the amenity.

25. Entering into agreements

The Municipality may enter into a written agreement with any person/organ of State, local community or organisation to provide for –

- (a) the co-operative development of any public amenity; or
- (b) the co-operative management of any public amenity; and
- (c) the regulation of human activities within a public amenity.

26. Liaison forums in community

1. The Municipality may establish one or more liaison forums in a community for the purposes of –
 - (a) creating conditions for a local community to participate in the affairs of the Municipality;
 - (b) encouraging a local community to participate in the affairs of the Municipality; and
 - (c) promoting the effective and safe use of public amenities.
2. A liaison forum may consist of –
 - (a) a member or members of an interest group, or an affected person;
 - (b) a member or members of a community in whose immediate area a public amenity exists;
 - (c) a designated official or officials of the Municipality; and
 - (d) the Councillor responsible for public amenities.
3.
 - (a) The Municipality may, when considering an application or registration in terms of this Bylaw request the input of a liaison forum.
 - (b) A liaison forum or any person or persons contemplated in Subsection (2) may, on own initiative submit an input to the Municipality for consideration.

27. Repeal of Bylaws

The provisions of any Bylaws previously promulgated by the Municipality or by any of the disestablished Municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this Bylaw, and insofar as it has been made applicable to the Municipality by the authorisation for the execution of powers and functions in terms of Section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

28. Short title and commencement

This Bylaw may be cited as the Public Amenities Bylaw, and commences on the date of publication thereof in the Provincial Gazette

IMPORTANT Reminder from Government Printing Works

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Thank you!

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